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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,487	02/18/2004	James G. Archuleta JR.	0068.03	3120

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USDA-ARS-OFFICE OF TECHNOLOGY TRANSFER
NATIONAL CTR FOR AGRICULTURAL UTILIZATION RESEARCH
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PEORIA, IL 61604

EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,487	Applicant(s) ARCHULETA ET AL.	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 3, 4 and 9-15 have been canceled.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fryrear in view of Clark.

With respect to claim 1, Fryrear shows an earth-working bucket 12 adapted for conversion to a combination excavator and subsoiler implement and further adapted for pivotal attachment to an excavating machine 10, comprising:

(a) opposing side walls 28 joined by a generally concave pan 26,32, said pan 26,32 having a leading edge (unnumbered) at the bottom (unnumbered) of the bucket 12 and a trailing edge (unnumbered) at the top (unnumbered) of the bucket 12, and each of said side walls 28 having an edge (unnumbered) in proximity to the leading pan edge (unnumbered) and trailing pan edge (unnumbered), wherein together the leading pan edge (unnumbered), trailing pan edge (unnumbered) and the side wall edges (unnumbered) define a bucket opening 20;

(b) pivotal attachment means (unnumbered) secured to the top (unnumbered) of the bucket and;

(c) a shank socket 50 incorporated into each of the opposing side walls 28 and having an open end 44, the socket 50 adapted to receive and secure a proximal end (unnumbered) of a

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subsoiling shank 38 having a substantially pointed, earth-working distal end 40, wherein the open end 44 of the socket 50 and the bucket opening 20 are oriented in generally opposite directions from one another.

As to claim 2, the shank socket 50 is adapted to receive at least one removable fastener 58 for securing the subsoiling shank 38 within the socket 50.

Regarding claim 5, Fryrear shows a subsoiling shank 38 secured within the shank socket 50.

With respect to claim 6, the subsoiling shank 38 lies substantially in a first plane (unnumbered) and comprises at least one wing 40 lying in a second plane (unnumbered) that is substantially perpendicular to the first plane (unnumbered).

As to claim 7, the subsoiling shank 38 has a curvilinear profile.

Regarding claim 8, the bottom (unnumbered) of the bucket 12 lies in a third plane (unnumbered) and the distal end 40 of the subsoiling shank 38 extends from the shank socket 50 to beyond the third plane (unnumbered).

The claims distinguish over Fryrear in requiring (1) each of the opposing side walls to comprise an extension that is exterior to the pan and is tapered toward the open end of the socket (as required in claim 1) and (2) the extension on each of the side walls to comprise a coulter blade (as required in claim 1).

Clark shows a bucket 30 wherein (1) each of the opposing side walls 43 comprise an extension 50,51 that is exterior to the pan 44 and would be tapered (note edge above and between each set of bolts 53) toward the open end of the socket 50 when placed on the sidewalls 28 of

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Fryrear (as required in claim 1); (2) the extension 50,51 on each of the side walls 43 comprises a coulter blade 50,51 (as required in claim 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed the extension/coulter blade 50 of Clark on the sidewalls 28 of Fryrear for additional cultivation.

Response to Arguments

Applicants' arguments have been fully considered but they are not persuasive since they are considered to be more limiting than what is actually claimed. Clark clearly shows that the placement of coulter blades as extensions from sidewalls of a bucket is old in the art. The fact that Fryrear is intended to be used in hard rock environments does not preclude its being used in other environments. In any event, the claims do not limit the bucket to being used in hard rock environments. Again, applicants' arguments are more limiting than what is actually being claimed.

Conclusion

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

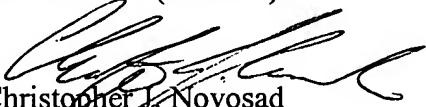
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

January 5, 2005